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SUBJECT: OVERVIEW OF NEPAL POLICE HUMAN RIGHTS CELL

1. (SBU) Summary. The Nepal Police Human Rights Cell was established in January 2003 and is staffed with only three investigators. However, organizational restructuring is underway to expand the number of investigators to 19. The cell is authorized to mete out minor punishments, such as verbal warnings or deferred promotions, and can recommend more serious punishments, such as suspension or termination, for approval by the presiding Deputy Inspector General of Police. A study by British aid agency DFID, in September 2003, identified significant management and policy shortcomings that limit the capacity of the Human Rights Cell to handle allegations of serious violations. Out of 753 complaints in one year, a total of 618 police personnel were punished: 582 verbal warnings were given, 16 formal warnings, 8 "adverse comments" were placed in personnel files, 5 employees were demoted, 4 were withheld from promotion, 2 were dismissed and 1 was suspended. End Summary.

Structure and Procedures of the Human Rights Cell

2. (SBU) On February 24, PolOff and RSO met with Deputy Superintendent of Police Nawa Raj Silwal, head of the Nepal Police Human Rights Cell. Silwal provided an overview of the unit's structure and its procedures for handling alleged human rights abuses by police personnel. The Human Rights Cell was formed in January 2003 and works from within the Police Inspectorate, which is headed by a Deputy Inspector General (DIG). In addition to the Human Rights Cell, the Inspectorate comprises a complaints/grievances investigation section, a police authority abuse investigation section and a human rights violation monitoring unit. There is significant overlap of responsibilities among the sections.

3. (SBU) There are only 19 staff in all four units. The Human Rights Cell itself has only three investigators -- inadequate to handle the number of complaints, Silwal said. Complaints are received from three sources: the National Human Rights Commission, the Home Ministry and the general public. In the Kathmandu Valley, ballot-like boxes allow citizens to submit written complaints regarding police behavior. Outside the valley, each of the five Regional Deputy Inspector Generals are responsible for receiving complaints from the public, investigating these complaints, and reporting to the Human Rights Cell the results of the investigation. However, Silwal noted, local commanders have shown little interest in disciplining their officers and many times fail to respond to written requests from the Human Rights Cell.

4. (SBU) According to Silwal, every complaint received is investigated. The first step usually is to interview the individual who filed the complaint as well as the police official involved. In minor offenses, an informal resolution amenable to both sides is sought. In more serious cases, the Human Rights Cell must conduct a more thorough investigation, including medical reports in the case of injury and witness testimony. If the Human Rights Cell finds it probable that the police official committed a criminal offense, he/she will be dismissed from duty pending a full criminal investigation and prosecution in the courts. For non-criminal offenses by police below the rank of inspector, DSP Silwal is authorized to discipline the offender with verbal or written warnings, reduced pay, or delayed promotion. For offenders above the rank of inspector or if the Human Rights Cell recommends demotion, suspension, or termination, the DIG must make the decision.

5. (SBU) The Human Rights Cell is undergoing organizational restructuring with the assistance of the British development agency DFID. The new cell will be comprised of three units: a professional standards unit that will deal with cases of police misconduct; a criminal investigation unit that will respond to allegations of serious human rights abuse; and a grievance handling unit that will manage internal grievances of police personnel. The restructured Human Rights Cell will be staffed with 20 investigators at the sub-inspector rank and above as well as administrative assistants at the constable and head constable rank. Silwal reported that he has already begun to select appropriate candidates with a high level of professional integrity and clean personnel

records to be investigators.

DFID Study Identifies Problems

16. (SBU) A study on the Human Rights Cell conducted in September 2003 by DFID noted that one of the principal problems in successful investigations into alleged abuses is a reluctance by senior police staff elsewhere in the organization, especially outside national headquarters, to deal with correspondence from the Human Rights Cell. The reports also identified as problems the absence of specific guidelines on how a complaint or allegation should be dealt with or what the appropriate punishment should be for a particular abuse. Moreover, the Police Act of 1955, as amended, identifies 30 criminal offenses by police personnel, but only one of them relates to the treatment of a member of the public, specifically "unjustly harassing any person through arrogance or intimidation or causing loss or damage to the property of any person." The other 29 offenses refer to internal disciplinary matters, such as failure to obey orders or to defend colleagues or police property.

17. (SBU) The DFID study found that a total of 899 complaints were recorded in the year 2002-2003 (from July to July), of which 753 were complaints against police employees while 146 involved members of the public who allegedly worked in concert with police employees. The most prevalent complaint, amounting to 328 allegations, related to treatment of staff within the organization. A further 151 complaints alleged corruption and 16 bribery. Only 38 allegations relating to "police behavior" were recorded. A total of 618 police employees had some kind of action taken against them following an investigation. By far, the most common punishment was a verbal warning -- 582 were given. Following that, 16 formal warnings were issued, 8 "adverse comments" were added to personnel files, 5 employees were demoted, 4 were withheld from promotion, 2 were dismissed and 1 was suspended. 135 cases remain pending.

Two Examples of Alleged Abuses

18. (SBU) PolOff asked Silwal whether the Human Rights Cell had initiated an investigation into the alleged beating of a "Drishti" newspaper reporter on February 1. (Note. According to the press, police officers entered the offices of the weekly publication and beat the journalist with batons. End Note.) Silwal was aware of this incident, but said that the Kathmandu Valley DIG had refuted the allegations. No investigation has been initiated into the incident because the alleged victim never filed a formal complaint with the Nepal Police, he added. Although the Human Rights Cell can initiate an investigation without a formal complaint, lack of sufficient manpower prevents it from doing so. Silwal also excused the incident because it occurred during civil disturbances created by months-long student protests. He implied that the police have different rules of engagement during civil disorder and are not held accountable for civilian injury during the protests.

19. (SBU) In another case at the end of January, roughly 17 police, led by an Inspector, allegedly entered Bir Hospital in an attempt to chase student protesters, disrupted hospital services and harassed doctors and nurses. Subsequently, the hospital filed a complaint with the Home Ministry. Silwal noted that the Home Ministry is conducting its own investigation into the incident because it is "high-profile." The ongoing police investigation into the incident, however, will determine individual responsibility and will punish the appropriate personnel involved, he said.

Comment

10. (SBU) The capacity of the Human Rights Cell will continue to be inadequate to handle allegations of serious human rights abuses until the Nepal Police adopt clear policy guidelines on when and how to investigate these allegations. Although the Inspectorate and the Human Rights Cell are empowered to investigate and punish police personnel for misbehavior, the organizational culture seems to tolerate a certain level of abuse of power. To change this culture will require years of sensitization training and successful prosecutions by the Human Rights Cell. End Comment.

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